

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

FILED

DEC 19 2019

Clerk, U.S. District Court
District Of Montana
Great Falls

SCHMAUS FAMILY PROPERTIES,
LLC, a Montana Limited Liability
Company, and JOSEPH H. SCHMAUS,

Plaintiffs,

vs.

UNITED STATES BUREAU OF LAND
MANAGEMENT, et al.,

Defendants.

CV 17-68-H-DLC-JTJ

**FINDINGS AND
RECOMMENDATIONS**

Plaintiffs Schmaus Family Properties, LLC, and Joseph H. Schmaus (Schmaus) filed this action pro se on June 9, 2017. (Doc. 1). Plaintiffs did not serve the Defendants with process within the 90-day time period described in Rule 4 of the Federal Rules of Civil Procedure.

The Court issued an Order on February 27, 2018, giving Plaintiffs one additional month to serve the Defendants with process. (Doc. 3). The Court directed Plaintiffs to serve the Defendants with process on or before March 27, 2018. (Doc. 3 at 2).

Plaintiffs moved to extend the service of process deadline 120 days. (Doc. 4). Chief United States District Judge Dana L. Christensen denied the

motion for lack of good cause. (Doc. 8 at 2). The March 27, 2018, service of process deadline remained in place.

The record reflects that Plaintiffs have not served the Defendants with process.

Accordingly, IT IS HEREBY RECOMMENDED:

1. This case should be dismissed without prejudice for failure to serve the Defendants with process.
2. The Court should direct the Clerk of Court to enter judgment accordingly.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge.

DATED this 19th day of December, 2019.


John Johnston
United States Magistrate Judge